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12 September 2025

CAN THE UN RESHAPE THE INTERNATIONAL TAX SYSTEM FROM BILATERALISM TOWARDS COMMUNITY INTERESTS?

2015

BEPS 1.0 – ‘15 Action Points’ OECD

Addis Ababa Action Agenda

v. OECD

CNBC

TECH

How Apple managed to pay a 0.005 percent tax rate in 2014

PUBLISHED TUE, AUG 30 2016•4:45 PM EDT | UPDATED TUE, AUG 30 2016•7:24 PM EDT

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amazon

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2015
BEPS 1.0 – '15 Action Points'
Addis Ababa Action Agenda

v.

2021 BEPS 2.0
Pillar I: Taxing the Digital Economy

Pillar II: 'Global Minimum Tax'

2022 UNGA 77/244 - vote requesting Secretary General Report

2023 UNGA 78/230 - vote to proceed with FTC

2024 UNGA 79/235 – Agreed on objectives, principles, commitments (TOR)

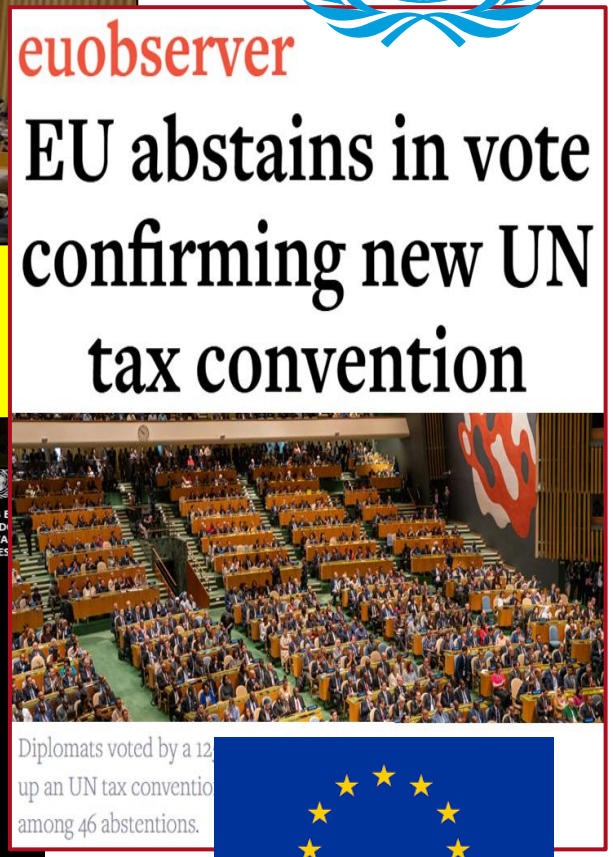
2025-2026 Negotiations

2023

2024

UNGA 78/230: 125-48-9
EU (and friends) vote ‘against’

UNGA 79/235: 119-9-43
EU (and friends) vote ‘abstain’


euobserver

EU abstains in vote confirming new UN tax convention

Diplomats voted by a 12
up an UN tax conventio
among 46 abstentions.

A/79/333

Annex I

Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

I. Introduction

1. In adopting resolution 78/230, "Promotion of inclusive and effective international tax cooperation at the United Nations," the General Assembly emphasized that developing a United Nations framework convention on international tax cooperation is needed in order to strengthen international tax cooperation and make it fully inclusive and more effective.

2. The General Assembly recognized in the resolution that developing a framework convention will also help in accelerating the implementation of the Addis Ababa Action Agenda on Financing for Development and the 2030 Agenda for Sustainable Development.

3. Therefore, the General Assembly established a Member State-led, open-ended ad hoc intergovernmental committee for the purpose of drafting terms of reference for a United Nations framework convention on international tax cooperation.

4. The General Assembly further requested that the ad hoc intergovernmental committee submit a report to the General Assembly at its seventy-ninth session, containing the draft terms of reference for a United Nations framework convention.

5. The ad hoc intergovernmental committee, having completed its work in accordance with this mandate, now recommends for consideration by the General Assembly the following draft terms of reference for a United Nations framework convention on international tax cooperation.

II. Structural elements of the framework convention

Preamble

6. The text of the framework convention should reflect, inter alia, General Assembly resolutions:

(a) 78/230 of 22 December 2023 on the promotion of inclusiv international tax cooperation at the United Nations

(b) 77/244 of 30 December 2022 on the Promotion of inclusive and effective international tax cooperation at the United Nation

(c) 70/1 of 25 September 2015 entitled "Transforming our world: the 2030 Agenda for Sustainable Development"

(d) 69/313 of 27 July 2015 on the Addis Ababa Action Agenda of the Third International Conference on Financing for Development

Objectives

7. A United Nations framework convention on international tax cooperation should include a clear statement of its objectives. In that regard, it should:

(a) Establish fully inclusive and effective international tax cooperation in terms of substance and process;

12/32 24-15701

'[i]t is high time that the international community addresses this injustice in global taxing rights that has impoverishing millions, which goes back to the League of Nations, when most [UN] members states were colonies and which has been perpetuated by the monopoly that rich country clubs have held over international rule making". South Africa, Meetings Coverage General Assembly, Second Committee, GA/EF/3597 22 November 2023 <https://press.un.org/en/2023/gaef3597.doc.htm> (accessed 8 June 2025).

FINANCIAL TIMES

Developing countries secure bigger international tax role for United Nations

The Guardian

UN agrees global tax rules resolution giving developing nations greater say

UN gains mandate for talks next year that could bring reforms to existing tax policy and new convention

OBJECTIVES

- ‘Establish fully inclusive and effective international tax cooperation’
- ‘Establish a system of governance’
- ‘Establish an inclusive, fair, transparent, efficient, equitable and effective international tax system for sustainable development, with a view to enhancing the legitimacy, certainty, resilience and fairness of international tax rules, while addressing challenges to strengthening domestic resource mobilization’.

PRINCIPLES

- Universal, consider different capacities, of countries
- Sovereignty
- Aligned with human rights
- Sustainable development
- Technological developments
- Fair allocation of international taxing rights
- Simple rules
- Certainty
- Transparency

COMMITMENTS

Reflect the principles, and in addition:

- Taxation of multinationals and high-net-worth individuals
- Administrative assistance, exchange of information
- IFF, tax evasion and avoidance

PROTOCOLS

- Protocol: taxation of (digital) services
- Protocol: Resolving tax disputes

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Human Rights

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Example:

A State seeks to levy additional corporate income tax and VAT on fossil fuel in relation to all airlines and shipping lines, including those established overseas but with local operations.

DTA Article 8 (1). Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

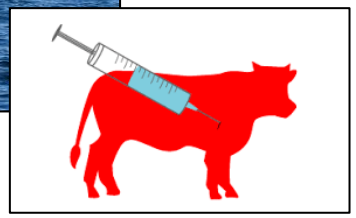
Air Services Agreement. '[t]here shall also be exempt from the same duties and taxes, […] fuels and lubricants destined to supply aircraft operated on international air…"

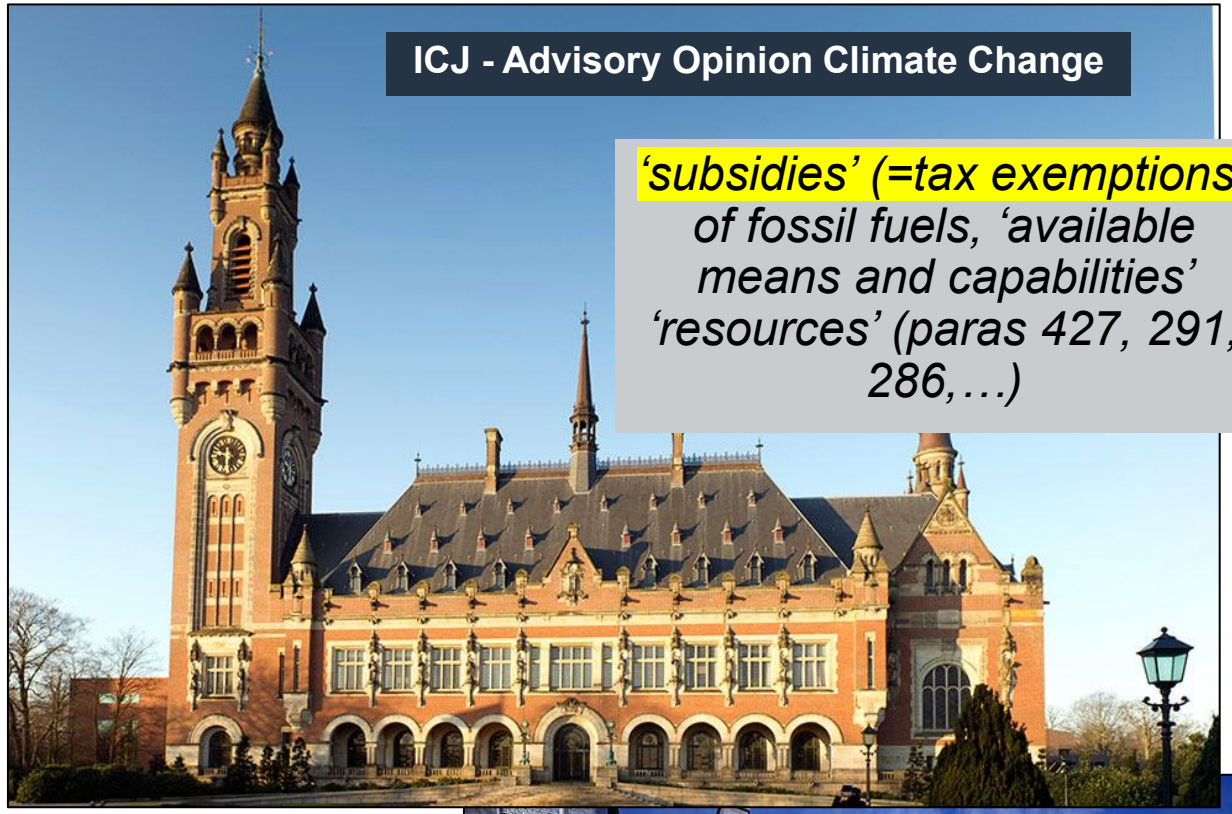
The Guardian

Aviation industry is 'failing dramatically' on climate, insiders say

VATTENFALL

WTO





ICJ - Advisory Opinion Climate Change

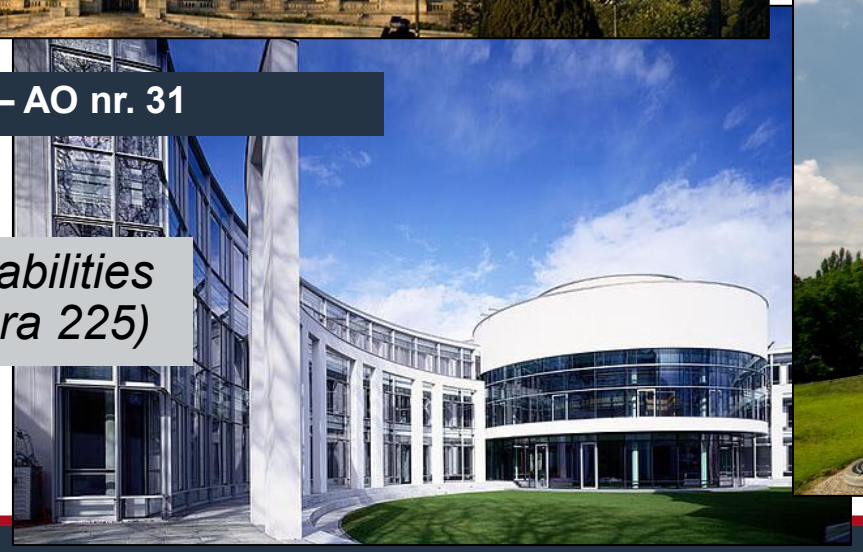
'subsidies' (=tax exemptions) of fossil fuels, 'available means and capabilities' 'resources' (paras 427, 291, 286,…)

Inter-American Court Human Rights – AO 32/25

'tax capacity', 'international tax cooperation' (paras 329, 250, 263)

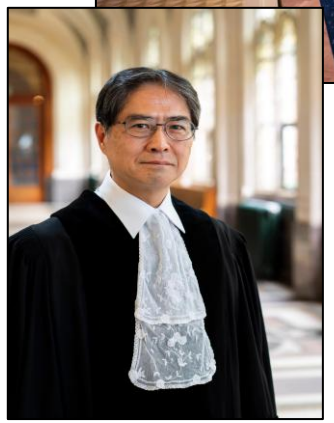
European Court of Human Rights - *Verein Klimaseniorinnen v. Switzerland*

concerned, among other measures, a carbon tax that was cancelled by Switzerland (paras 86, 93, 96)



ITLOS – AO nr. 31

'financial capabilities of States' (para 225)



- *'Capable of making an adequate contribution'*[1]
- *"Function effectively'*[1]
- *'Do the utmost*[2]
- *To provide an 'effective response'*[3]
- *'All means at their disposal"*[4]
- *'Concrete'*[5]
- *'Not formulaic'* [6]
- *'Proactively'*[7]
- *'Realistically implementable'*[8]
- Also,'maximum available resources' (e.g. art. 2.1 ESCR)

Reinforces earlier suggestions by UN human rights treaty bodies (e.g. CESCR E/C.12/2025/1)

- States do not have unlimited discretion concerning their tax policies.
- They are bound by international obligations, incl. conventional (e.g. climate treaties), customary law and human rights.
- This obligation does not only apply to the national tax systems as presented, but extends to undertaking reform if needed, potential tax resources
- Within States' national circumstances.

[1] ICJ 253, 242; See also, on the principle of effectiveness in connection to procedural rights, EFTA Norway v Greenpeace paras 54-56 and 104. [2] ITLOS 233; see also *Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011*, p.10, at p.41, para. (110). [3] ITLOS 212 [4] Pulp Mills para 101; [5] Klima 565 [6] ICJ 236; [7] ICJ 250, 252, 253 [8] *Verein KlimaSeniorinnen*, paras. 550-552; IACtHR AO, paras. 236, 336

ICJ - Advisory Opinion Climate Change

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Inter-American Court Human Rights – AO 32/25

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an Rights - Switzerland

'The Court also notes that, in implementing the obligation of cooperation, States can promote coordinated measures on matters such as **progressive taxation**, reinforcement of **tax collection capacities**, and combatting **tax evasion**, corruption, and illicit financial flows' (IACtHR AO 32 para 263)

'financia
State

concerned, among other measures, a carbon tax that was cancelled by Switzerland (paras 86, 93, 96)

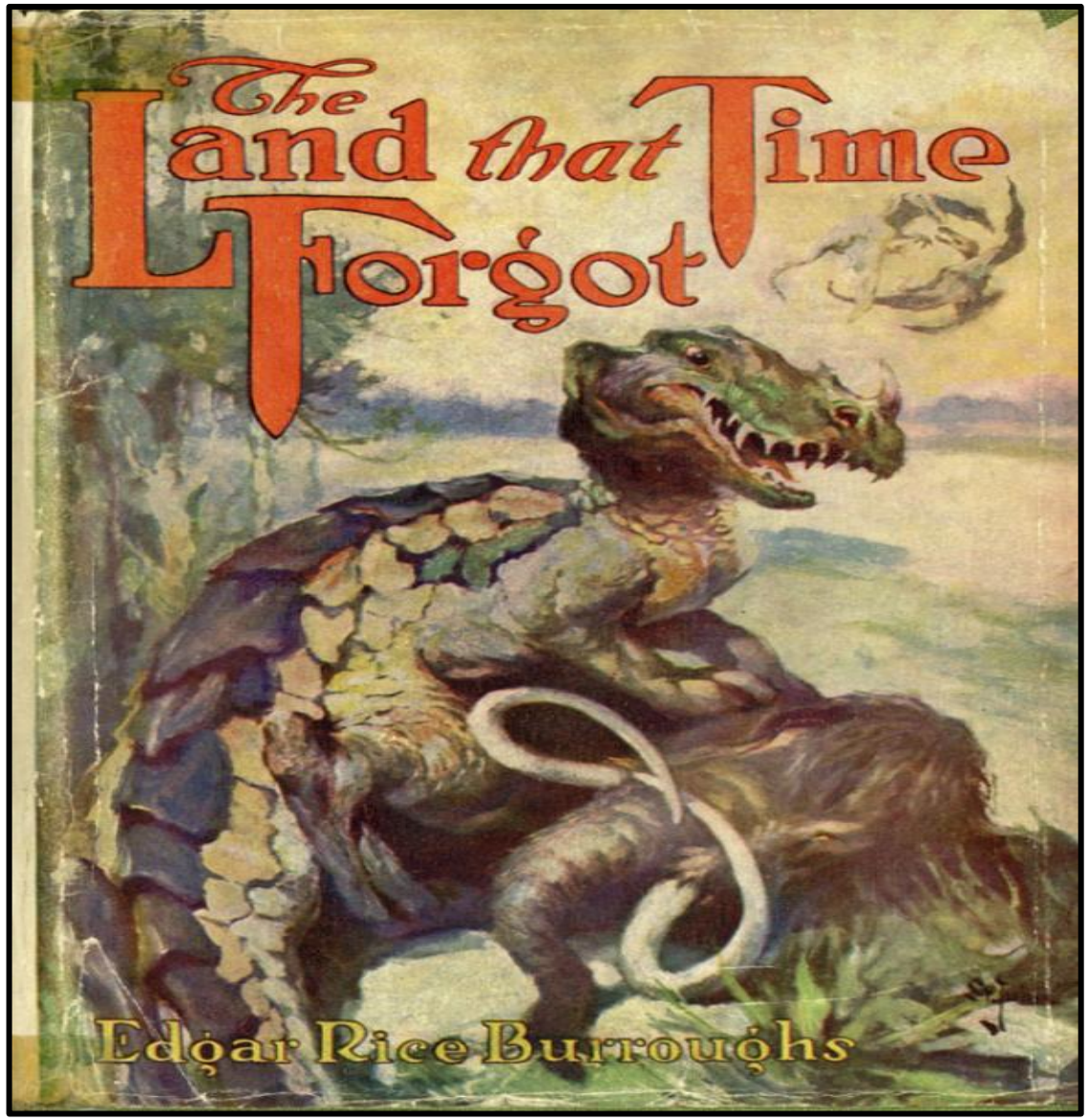
? Can the UN FTC Effect Real Change?

1. Fiscal adequacy = international legal obligation

2. Domestic resource mobilization remains critical

3. Just asserting core principles in the FTC = insufficient.

4. FTC needs new, targeted normativity to go from abstract principles to tangible outcomes.



Thank You.

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You can also contact me at Edwin@VDB-Loi.com.